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GEORGE H. GERSTMAN
SEYFARTH SHAW FAIRWEATHER & GERALDSON
55 EAST MONROE STREET
42nd FLOOR
CHICAGO, IL 60603-5803

EXAMINER
BROCKETTI, JULIE K

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3713	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- *The MAILING DATE of this communication appears on the cover sheet with th correspond nce address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *6-26-03* .

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-19 and 21-26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-19 and 21-26* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *8* .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived by
> the manner in which the invention was made.

Claims 15-19 and 21-22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Walker et al. in view of Van Huben et al., U.S. Patent No.

5,878,408. Walker et al. discloses a game apparatus for configuring a paytable

for a gaming terminal. A microprocessor is used to control game play on the

gaming terminal (Fig. 1). An input device is coupled to the microprocessor and

receives information from a user for defining at least a part of a first paytable

(Fig. 3). The microprocessor is programmed to calculate an overall payout ratio

for the paytable (col. 7 lines 33-44). An output device such as a display is

controlled to output information related to the results of the calculating (Fig. 8).

The microprocessor is programmed to store the first paytable in a memory

coupled to the microprocessor (col. 3 lines 50-59). The input device can be a

touch screen device (col. 2 lines 34-35). The display shows information form a

stored paytable, i.e. the default paytable. The information in the stored

paytable can be modified to define a customized paytable, i.e. first paytable.

The information defines the magnitude of a monetary prize. When a player

customizes the magnitude of a monetary prize the player is not allowed to

modify or change the prize win frequency. Consequently, when one parameter

is altered, the gaming system compensates by the computer modifying another

parameter. Moreover, the microprocessor is programmed to calculate al

possible game outcomes and any prizes associated with each possible game

outcome. Thus every customization results are compared with predetermined

gaming criteria to determine the final gaming parameters (col. 6 lines 57-67;

col. 7 lines 1-12). Walker lacks in specifically stating that a message is output

if the results fail to comply with the gaming criteria. Huben et al. teaches of a

data management system and process. In the process a criteria check is

performed and any data that does not pass the criteria check fails and a

message is sent to the user (See Van Huben et al. col. 51 lines 29-37). It is well

known throughout the art to perform criteria checks to determine if data falls

within an acceptable range. It would have been obvious at the time the

invention was made to compare the customized paytable results to

predetermined gaming criteria and then output a message to the user if the

results fail to comply with the criteria. It is also obvious to suggest a

modification to the paytable when the results fail to comply with the criteria.

For example, in Walker et al. after a user customizes a parameter, calculations

to determine all other parameters are performed and the user must approve the

new parameters before use. Consequently, if a user inputs an invalid

parameter, the calculation section will modify this parameter with a new suggested limit.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of "Regulation 14" of the Nevada Gaming Statutes. Walker discloses inputting information into a gaming terminal indicative of a paytable change. It is inherent to the game that the newly customized paytable is prevented from being used until all calculations are performed, thereby gaining regulatory approval and user approval since every gaming terminal paytable requires approval from a regulatory agency. It is obvious that once a player customizes a paytable, the paytable must undergo regulatory approval (See "Regulation 14"). The Examiner notes that the date on the submitted Regulation 14 is August 2000, however many of the statues listed under the regulation have dates prior to Applicant's priority date. Furthermore, it is well known to anyone skilled in the art that regulatory approval for gaming machines existed prior to Applicant's priority date. It is obvious that one could gain this approval electronically by transmitting the game related information to a remote computer of a gaming regulatory agency and then having the regulatory agency analyze the game for regulatory compliance and then transmit the approval of the paytable information back to the gaming terminal. Transmitting data electronically is well known throughout the art. Furthermore, it is well known throughout the gaming art that the regulatory authority either approves of changes to the gaming machines or fails to

indicate regulatory compliance. It would also have been obvious for the

regulatory authority to suggest modifications that would place the game in

compliance with the regulations. It is well known throughout the art that when

something is wrong, suggestions on how to correct the situation can be made.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Walker et al. in view of Van Huben et al. in further view of "Regulation 14" of

the Nevada Gaming Statutes. See explanations based on claims 23-25 above.

Claims 1-4 and 8-11 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Walker et al. in view of Pease et al., U.S. Patent No.

5,326,104. Walker et al. discloses a game apparatus for configuring a paytable

for a gaming terminal. A microprocessor is used to control game play on the

gaming terminal (Fig. 1). An input device is coupled to the microprocessor and

receives information from a user for defining at least a part of a first paytable

(Fig. 3). The gaming terminal receives identification information from a user

(col. 4 lines 13-19). The microprocessor is programmed to calculate an overall

payout ratio for the paytable (col. 7 lines 33-44). An output device such as a

display is controlled to output information related to the results of the

calculating (Fig. 8). The microprocessor is programmed to store the first

paytable in a memory coupled to the microprocessor (col. 3 lines 50-59). The

input device can be a touch screen device (col. 2 lines 34-35). The display

shows information form a stored paytable, i.e. the default paytable. The

information in the stored paytable can be modified to define a customized

paytable, i.e. first paytable. The information defines the magnitude of a

monetary prize. When a player customizes the magnitude of a monetary prize

the player is not allowed to modify or change the prize win frequency.

Consequently, when one parameter is altered, the gaming system compensates

by the computer modifying another parameter. Moreover, the microprocessor

is programmed to calculate al possible game outcomes and any prizes

associated with each possible game outcome (col. 6 lines 57-67; col. 7 lines 1-

12). The newly customized paytable is then able to be stored in memory (col.

11 lines 14-20).

Pease et al. teaches of a secure automated electronic casino gaming

system. In the system a manager, i.e. gaming operator, needs to enter

identification information in order to game access to the paytables of the

gaming system. The manager is authorized to change the paytables only after

the manager's identification information is received and compared with

authorized identities (See Pease et al. col. 26 lines 32-67). Consequently, it

would have been obvious at the time the invention was made to only allow

authorized individuals such as gaming operators access to changing the

paytables of the gaming machines of Walker et al. By only allowing authorized

persons access, security is maintained in the gaming machine and regular

players can not then distort the paytables to their advantage.

Claims 5-7 and 12-14 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Walker et al. in view of Pease et al. and in further view of

Van Huben et al., U.S. Patent No. 5,878,408. Huben lacks in specifically

stating that a message is output if the results fail to comply with the gaming

criteria. Huben et al. teaches of a data management system and process. In

the process a criteria check is performed and any data that does not pass the

criteria check fails and a message is sent to the user (See Van Huben et al. col.

51 lines 29-37). It is well known throughout the art to perform criteria checks

to determine if data falls within an acceptable range. It would have been

obvious at the time the invention was made to compare the customized

paytable results to predetermined gaming criteria and then output a message

to the user if the results fail to comply with the criteria. It is also obvious to

suggest a modification to the paytable when the results fail to comply with the

criteria. For example, in Walker et al. after a user customizes a parameter,

calculations to determine all other parameters are performed and the user

must approve the new parameters before use. Consequently, if a user inputs

an invalid parameter, the calculation section will modify this parameter with a

new suggested limit. Moreover, the newly customized paytable is prevented

from being used until all calculations are performed, thereby gaining regulatory

approval and user approval. Since every gaming terminal paytable requires

approval from a regulatory agency. It is obvious that once a player customizes

a paytable, the paytable must undergo regulatory approval.

Response to Amendment

It has been noted that claims 1, 2, 8, 9, 11-15, 21 and 23 have been

amended. Claim 20 has been cancelled. New claims 24-26 have been added.

Response to Arguments

Applicant's arguments filed June 26, 2003 have been fully considered

but they are not persuasive.

The Applicant argues that the combination of Pease et al. with Walker et

al. teaches away from the concept of claim 1 since in Walker it is the player

who modifies the paytables and not a gaming operator. The Examiner

acknowledges this fact but notes that Pease clearly illustrates that for security

reasons a manager, i.e. gaming operator must input a password to be

authorized to change the paytables. Even though in Walker, the player is

allowed to modify the paytables, it would have been obvious to one of ordinary

skill in the art to utilize the hardware and software components of Walker with

an added security feature of only allowing gaming operators access to the game

customization. The reference Walker is being used to illustrate that the

customization of paytables on a gaming device is well known throughout the

art, the fact that a player is the one doing the customization does not alter the

fact that the processing, storage, calculation processes are well known.

Consequently, the combination of Walker et al. and Pease et al. do not teach

away from the Applicant's invention nor are a contradiction in terms when

those skilled in the art were considering Walker et al. One skilled in the art

would certainly look at the hardware and software processes of Walker for altering paytables and not look solely at what type of user was performing the customizations.

The Applicant argues that Van Huben relates to a general data management system and process and does not relate to configuring a paytable for a gaming terminal where the criteria compared are gaming criteria. The Examiner acknowledges that the Van Huben reference is broad and general. However, that further indicates that the process of comparing criteria in a computer and outputting messages when certain criteria have not been met is well known throughout the art. Just because Van Huben does not specifically describe comparing gaming criteria doesn't mean that it would not be an obvious feature. Computer processing has consistently had criteria checks throughout various processes. Consequently, any activity that uses a computer can utilize the software features of a criteria check, which certainly includes gaming terminals.

Applicant states that there is nothing to suggest in either Walker or in Van Huben of suggesting a modification for a paytable when initial results fail to comply with the criteria. The Examiner agrees that Walker and Van Huben do not mention anything about suggesting a modification, however, it is well known in the art that when one compares things or evaluates criteria, suggestions may be made to help comply with the criteria. The processing of

helping someone through suggestions has been known for a long time. For example, teaches suggest ways to improve homework or tests to students.

The Applicant argues that there is nothing in Walker or Van Huben relating to regulatory approval by a government. The Examiner notes that the Reference "Regulation 14" has not been included to illustrate that regulatory approval for gaming machines is well known throughout the art. The Applicant further states that they believe this is the first time that a computer of an official regulatory agency is directly connected to a gaming terminal. That may be true, however, it has been well known in the art for some time to connect computers for the transfer of information. Therefore, it is an obvious advancement in the art to connect gaming machines directly with the regulatory authority.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brocketti whose telephone number is 703-308-7306. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike O'Neill "Acting SPE" can be reached on 703-308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-306-5648.

JB
July 15, 2003

MICHAEL O'NEILL
PRIMARY EXAMINER